

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1297

Introduced by Assembly Member Frommer

February 21, 2003

~~An act to add Sections 1727.5 and 1732.5 to the Insurance Code, An act to amend Sections 1623 and 1625 of, and to add Section 1727.5 to, the Insurance Code, relating to insurance brokers.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1297, as amended, Frommer. Insurance: brokers.

Existing law requires every application for insurance submitted by an insurance broker to an insurer to show that the person is acting as an insurance broker. Existing law provides that, if the application shows that the person is acting as an insurance broker and is licensed as an insurance broker in the state in which the application is submitted, it shall be presumed, for licensing purposes only, that the person is acting as an insurance broker.

This bill would eliminate the provisions creating this presumption and would provide instead that it shall be conclusively presumed that a fire and casualty licensee, as defined, acted as an insurance broker in a transaction if the licensee has (1) obtained from the consumer a signed broker fee disclosure and agreement in a specified form acknowledging that the licensee has acted as an insurance broker with respect to the consumer's purchase of, or application to purchase, certain types of personal insurance coverage and any personal liability umbrella coverage associated therewith, and (2) maintained in force a bond and liability insurance as required by other provisions of law. The bill would

allow an insurer to extend binding authority to any fire and casualty licensee who complies with these provisions.

Existing law generally regulates the licensing and conduct of insurance brokers, as defined.

This bill would require that insurance brokers maintain errors and omissions liability insurance covering the broker's transactions, in an amount no less than \$250,000.

~~Existing law distinguishes insurance agents from insurance brokers, and subjects them to different requirements and standards, as specified.~~

~~This bill would provide that neither the granting of binding authority by an insurer to a broker nor the access of the broker to the insurer's rates and forms shall constitute evidence that the broker is acting as an agent and not as a broker in the placement of insurance coverage.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 1623 of the Insurance Code is amended*
2 *to read:*

3 1623. An insurance broker is a person who, for compensation
4 and on behalf of another person, transacts insurance other than life
5 insurance with, but not on behalf of, an insurer. ~~Every application~~
6 ~~for insurance submitted by an insurance broker to an insurer shall~~
7 ~~show that the person is acting as an insurance broker. If the~~
8 ~~application shows that the person is acting as an insurance broker~~
9 ~~and is licensed as an insurance broker in the state in which the~~
10 ~~application is submitted, it shall be presumed, for licensing~~
11 ~~purposes only, that the person is acting as an insurance broker.~~
12 ~~Nothing in this section is intended to affect any rights or remedies~~
13 ~~otherwise available under the law.~~

14 SEC. 2. *Section 1625 of the Insurance Code is amended to*
15 *read:*

16 1625. (a) A fire and casualty licensee is a person authorized
17 to act as an insurance agent, broker, or solicitor, and a fire and
18 casualty broker-agent license is a license so to act.

19 (b) A fire and casualty licensee is also authorized to transact
20 24-hour care coverage, as defined in Section 1749.02, and any
21 coverage that a personal lines licensee is authorized to transact
22 pursuant to Section 1625.5.

1 (c) With respect to any transaction involving a licensee, it shall
2 be conclusively presumed that the licensee acted as an insurance
3 broker in the transaction if the licensee has done each of the
4 following:

5 (1) Obtained from the consumer a signed broker fee disclosure
6 and agreement, in a form that complies with the rules and
7 regulations adopted by the commissioner pursuant to Section
8 790.10, acknowledging that the licensee has acted as an insurance
9 broker with respect to the consumer's purchase of, or application
10 to purchase, personal insurance coverage of a type described in
11 Section 660 or 675, and any personal liability umbrella coverage
12 associated therewith.

13 (2) Maintained in force the bond required by Section 1662 and
14 the liability insurance required by Section 1727.5.

15 (d) An insurer may extend binding authority to any fire and
16 casualty licensee who complies with this section.

17 SEC. 3. Section 1727.5 is added to the Insurance Code, to
18 read:

19 1727.5. Every licensee acting as an insurance broker shall
20 maintain errors and omissions liability insurance covering
21 transactions of the licensee, in an amount no less than two hundred
22 fifty thousand dollars (\$250,000).

23 ~~SEC. 2. Section 1732.5 is added to the Insurance Code, to~~
24 ~~read:~~

25 ~~1732.5. Neither the granting of binding authority by an~~
26 ~~insurer to a broker nor the access of the broker to the insurer's rates~~
27 ~~and forms shall constitute evidence that the broker is acting as an~~
28 ~~agent and not as a broker in the placement of insurance coverage.~~